



Journal of the Senate

Number 2—Special Session A

Friday, December 7, 1984

The Senate was called to order by the President at 10:00 a.m. A quorum present—39:

Mr. President	Fox	Jennings	Neal
Barron	Frank	Johnson	Peterson
Beard	Gersten	Kirkpatrick	Plummer
Carlucci	Girardeau	Kiser	Scott
Castor	Gordon	Langley	Stuart
Childers, D.	Grant	Mann	Thomas
Childers, W. D.	Grizzle	Margolis	Thurman
Crawford	Hair	McPherson	Vogt
Deratany	Hill	Meek	Weinstein
Dunn	Jenne	Myers	

Excused: Senator Malchon

Prayer by the Reverend Robert Key, Pastor, New Hope Baptist Church, Tallahassee:

Our Lord, as we come before you this day, we come before you as mere men realizing there is no power, but that of you. All powers that be are ordained of God. Lord, we ask your blessings upon that which is to be done today. That which is to be said. You said, Lord, in your word that we would lift our eyes unto the hills from whence cometh our help. Our help cometh from the Lord who made the heaven and the earth. So Lord, bless this session. Give these men wisdom that, Lord, we could build a better state, a greater state and a greater nation before an almighty God. In Jesus name we pray. Amen.

Votes Recorded

Senator Hair was recorded as voting yea on SB 11-A which was considered December 6.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has passed HJR 27-A and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Bell—

HJR 27-A—A joint resolution establishing a new effective date for House Bill 1302, an act relating to educational facilities construction and funding, which bill was passed by both houses of the Legislature during the 1984 Regular Session and thereafter vetoed by the Governor.

On motions by Senator Neal, by the required constitutional two-thirds vote of the Senate, HJR 27-A was admitted for introduction, and read the first time by title. On motion by Senator Neal, by two-thirds vote HJR 27-A was placed on the special order calendar.

On motions by Senator Neal, by two-thirds vote HJR 27-A was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Fox	Johnson	Peterson
Barron	Frank	Kirkpatrick	Plummer
Beard	Gersten	Kiser	Scott
Carlucci	Girardeau	Langley	Stuart
Castor	Grant	Mann	Thomas
Childers, D.	Grizzle	Margolis	Thurman
Childers, W. D.	Hair	McPherson	Vogt
Crawford	Hill	Meek	Weinstein
Deratany	Jenne	Myers	
Dunn	Jennings	Neal	

Nays—None

Vote after roll call:

Yea—Gordon

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has admitted for introduction by the required Constitutional two-thirds vote of the membership of the House and passed HB 8-A and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Ward—

HB 8-A—A bill to be entitled An act relating to municipal elections; prohibiting the holding of municipal elections on certain dates; rescheduling such elections; providing an effective date.

On motion by Senator Barron, by the required constitutional two-thirds vote of the Senate, HB 8-A was admitted for introduction, read the first time by title and referred to the Committee on Judiciary-Civil.

On motions by Senator Barron, by two-thirds vote HB 8-A was withdrawn from the Committee on Judiciary-Civil, and by two-thirds vote placed on the special order calendar.

On motions by Senator Barron, by two-thirds vote HB 8-A was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Mr. President	Dunn	Jenne	Myers
Barron	Fox	Jennings	Neal
Beard	Frank	Johnson	Peterson
Carlucci	Gersten	Kirkpatrick	Plummer
Castor	Girardeau	Kiser	Scott
Childers, D.	Grant	Mann	Stuart
Childers, W. D.	Grizzle	Margolis	Thomas
Crawford	Hair	McPherson	Vogt
Deratany	Hill	Meek	Weinstein

Nays—None

Vote after roll call:

Yea—Gordon, Thurman

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has admitted for introduction by the required Constitutional two-thirds vote of the membership of the House and passed as amended HB 18-A and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Ogden and others—

HB 18-A—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.06, F.S.; providing that the production of certain electric energy, steam energy, or other energy is exempt from the imposition of such tax; providing for taxpayer refunds; providing a retroactive effective date.

On motion by Senator W. D. Childers, by the required constitutional two-thirds vote of the Senate, HB 18-A was admitted for introduction, read the first time by title and referred to the Committee on Finance, Taxation and Claims.

On motions by Senator W. D. Childers, by two-thirds vote HB 18-A was withdrawn from the Committee on Finance, Taxation and Claims, and by two-thirds vote placed on the special order calendar.

On motions by Senator W. D. Childers, by two-thirds vote HB 18-A was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Fox	Johnson	Plummer
Barron	Frank	Kirkpatrick	Scott
Beard	Gersten	Langley	Stuart
Carlucci	Girardeau	Mann	Thomas
Castor	Grant	Margolis	Thurman
Childers, D.	Grizzle	McPherson	Vogt
Childers, W. D.	Hair	Meek	Weinstein
Crawford	Hill	Myers	
Deratany	Jenne	Neal	
Dunn	Jennings	Peterson	

Nays—None

Vote after roll call:

Yea—Gordon

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has passed as amended HB 16-A and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Mitchell and others—

HB 16-A—A bill to be entitled An act relating to citrus canker; appropriating moneys for the annual period beginning July 1, 1984, and ending June 30, 1985, for purposes of matching federal expenditures for the purpose of citrus canker eradication and indemnification; supplementing appropriations made by chapter 84-220, Laws of Florida; specifying the calculations for indemnification; restricting appropriations made by Chapter 84-220, Laws of Florida; providing an effective date.

—was read the first time by title and referred to the Committees on Agriculture and Appropriations.

On motions by Senator Neal, by two-thirds vote HB 16-A was withdrawn from the Committees on Agriculture and Appropriations, and by two-thirds vote placed on the special order calendar.

On motion by Senator Neal, by two-thirds vote HB 16-A was read the second time by title.

Senator Neal moved the following amendments which were adopted:

Amendment 1—On page 1, lines 14-30 and on page 2, lines 1 and 2, strike all of said lines and insert:

WHEREAS, citrus production in Florida is threatened by the bacterial disease citrus canker, and

WHEREAS, although there is no legal obligation on the part of the State of Florida to do so, it is recognized as being in the best interests of the state that state funds be provided both for financial assistance to the citrus industry and for eradication of citrus canker by destruction of infected and exposed plants to prevent the spread of the bacterium, and

WHEREAS, although authority exists under s. 601.15(7)(c), Florida Statutes, for moneys in the Florida Citrus Advertising Trust Fund to be used to alleviate the citrus canker crisis without the necessity of any legislative action, the Legislature has determined that appropriation of general state revenues is an acceptable alternative, and

WHEREAS, because of the statewide economic impact of the citrus industry on the general economy of the State of Florida, funds should be provided from the general revenues of the State of Florida to accomplish this purpose, NOW, THEREFORE,

Amendment 2—On pages 2 and 3, strike everything after the enacting clause and insert:

Section 1. The moneys in the following specific appropriations are appropriated from the named fund for the fiscal year 1984-1985 to the state agency indicated, to be used to supplement the appropriations made in section 1 of chapter 84-220, Laws of Florida, as supplemental amounts to be used to pay costs related to citrus canker eradication and financial assistance.

AGRICULTURE AND CONSUMER SERVICES, DEPARTMENT OF

Division of Plant Industry

Special Categories	
Citrus Canker Eradication	
General Revenue Fund	\$2,100,000

The Department of Agriculture and Consumer Services shall develop an expenditure plan which shall be reviewed and approved by the Administration Commission prior to the release of these funds.

Special Categories	
Citrus Canker Financial Assistance	
General Revenue Fund	\$4,798,000

It is the intent of the Legislature that the Department of Agriculture and Consumer Services engage in a financial assistance program through June 30, 1985. These funds shall be used to financially assist parties whose citrus trees were lawfully destroyed in compliance with the state-federal eradication program. The expenditure of funds authorized by this act shall immediately cease in the event that federal matching funds are not forthcoming. The department shall coordinate its activities under this section with the United States Department of Agriculture to assure that no person twice receives assistance for the same loss. No person may receive financial assistance under this section unless he, in writing submitted to the department, releases the state from liability for any losses arising out of inspection, control, or eradication of citrus canker. This section does not constitute a recognition of state liability for losses arising out of citrus canker or out of activities to control citrus canker or a commitment on the part of the state to provide financial assistance for any future losses arising out of citrus canker or out of activities to control citrus canker.

Section 2. The Florida Citrus Commission shall submit to the President of the Senate and the Speaker of the House of Representatives by April 1, 1985, a plan to create a \$10 million revolving emergency fund from sources other than general revenue for control, inspection, and eradication of hazards to the production of citrus and for financial assistance to persons suffering losses because of emergencies in the citrus industry and related industries. The plan shall provide for such activity and assistance only with respect to events occurring after June 30, 1985. The commission may propose the use of funds under its discretionary control to finance the plan. The plan shall identify the fund level at which moneys are to be replaced in the revolving fund. The plan shall specifically provide that the state shall not be liable for any future losses or be committed to any future assistance. The plan shall provide that if the commission fails to seek to alleviate emergencies by expenditure of moneys in the fund pursuant to administrative remedies provided under chapter 216, Florida Statutes, the Legislature shall appropriate moneys from the fund for such purposes prior to appropriating moneys from any other source for such purposes.

Section 3. This act shall take effect upon becoming a law.

Amendment 3—In title, on page 1, lines 2-12, strike all of said lines and insert: An act relating to citrus; providing appropriations for inspection, control, and eradication of citrus canker and for financial assistance to persons suffering losses because of citrus canker; requiring the Department of Citrus to submit to the Legislature a plan for creation of a fund to provide for future emergencies in the citrus industry and related industries; providing an effective date.

On motion by Senator Neal, by two-thirds vote HB 16-A as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Castor	Deratany	Girardeau
Barron	Childers, D.	Fox	Gordon
Beard	Childers, W. D.	Frank	Grant
Carlucci	Crawford	Gersten	Grizzle

Hair	Kiser	Myers	Thomas
Hill	Langley	Neal	Thurman
Jenne	Mann	Peterson	Vogt
Jennings	Margolis	Plummer	Weinstein
Johnson	McPherson	Scott	
Kirkpatrick	Meek	Stuart	

Nays—None

On motion by Senator Frank, by the required constitutional two-thirds vote of the Senate the following bill was admitted for introduction:

By Senators Frank and Fox—

SB 12-A—A bill to be entitled An act relating to statutes of limitations; amending s. 775.15, F.S., as amended; specifying applicability of statutes of limitations relating to certain sexual offenses; providing an effective date.

—which was read the first time by title and referred to the Committee on Judiciary-Civil.

On motions by Senator Frank, by two-thirds vote SB 12-A was withdrawn from the Committee on Judiciary-Civil, and by two-thirds vote placed on the special order calendar.

On motions by Senator Frank, by two-thirds vote SB 12-A was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Fox	Johnson	Plummer
Barron	Frank	Kirkpatrick	Scott
Beard	Gersten	Langley	Stuart
Carlucci	Girardeau	Mann	Thomas
Castor	Gordon	Margolis	Thurman
Childers, D.	Grizzle	McPherson	Vogt
Childers, W. D.	Hair	Meek	Weinstein
Crawford	Hill	Myers	
Deratany	Jenne	Neal	
Dunn	Jennings	Peterson	

Nays—None

Vote after roll call:

Yea—Kiser

On motion by Senator Jenne, the Senate recessed at 10:50 a.m. to reconvene at 2:00 p.m.

The Senate was called to order by the President at 2:00 p.m. A quorum present—38:

Mr. President	Fox	Jennings	Peterson
Barron	Frank	Johnson	Plummer
Beard	Gersten	Kirkpatrick	Scott
Carlucci	Girardeau	Kiser	Stuart
Castor	Gordon	Langley	Thomas
Childers, D.	Grant	Mann	Thurman
Childers, W. D.	Grizzle	Margolis	Vogt
Crawford	Hair	McPherson	Weinstein
Deratany	Hill	Meek	
Dunn	Jenne	Myers	

On motion by Senator Jenne, the Senate recessed at 2:21 p.m., awaiting the call of the President.

The Senate was called to order by the President at 5:30 p.m. A quorum present—39:

Mr. President	Fox	Jennings	Neal
Barron	Frank	Johnson	Peterson
Beard	Gersten	Kirkpatrick	Plummer
Carlucci	Girardeau	Kiser	Scott
Castor	Gordon	Langley	Stuart
Childers, D.	Grant	Mann	Thomas
Childers, W. D.	Grizzle	Margolis	Thurman
Crawford	Hair	McPherson	Vogt
Deratany	Hill	Meek	Weinstein
Dunn	Jenne	Myers	

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has passed as amended HB 19-A and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Gordon and others—

HB 19-A—A bill to be entitled An act relating to child care; amending s. 402.301, F.S., providing legislative intent and expanding state policy; amending s. 402.302, F.S., modifying and adding definitions; amending s. 402.305, F.S., modifying licensing standards for child care facilities to provide for screening and background checks and for reasonable access; creating s. 402.3055, F.S., providing for voluntary fingerprinting; amending s. 402.306, F.S., requiring the department and local licensing agencies to disseminate certain information; amending s. 402.307, F.S., relating to approval of licensing agencies; amending s. 402.308, F.S., relating to issuance of license, to clarify; providing for reapplication upon change of ownership; providing for monthly review of certain local licenses, zoning approvals and variances, etc., to prevent the operation of unlicensed facilities; amending s. 402.309, F.S., decreasing the period of time for which provisional licenses may be issued and otherwise modifying provisions relating thereto; amending s. 402.310, F.S., relating to disciplinary actions, to clarify; amending s. 402.311, F.S., expanding provisions relating to inspections; amending s. 402.312, F.S., expanding provisions relating to injunctive relief; creating s. 402.3125, F.S., providing requirements as to display and appearance of licenses; providing for development and distribution of brochures to parents; requiring certification of compliance; providing a penalty for noncompliance; specifying contents; providing for availability of similar brochures to all interested persons; amending s. 402.315, F.S., relating to funding, to clarify; amending s. 402.316, F.S., relating to exemptions; creating s. 402.318, F.S., prohibiting certain advertisements; providing a penalty; creating s. 402.319, F.S., providing a penalty for specified conduct; creating the Child Care Task Force; providing for membership, meetings, and expenses thereof; providing for expiration of the task force; providing an appropriation; providing for Sunset review and repeal; providing an effective date.

—which was read the first time by title and referred to the Committee on Health and Rehabilitative Services.

On motions by Senator Fox, by two-thirds vote HB 19-A was withdrawn from the Committee on Health and Rehabilitative Services and by two-thirds vote placed on the special order calendar.

On motion by Senator Fox, by two-thirds vote HB 19-A was read the second time by title.

Senator Grant presiding

Senator Carlucci moved the following amendment which failed:

Amendment 1—On page 12, between lines 3 and 4, insert:

(6) *Notwithstanding any other provision of law to the contrary, each child care facility that receives directly or indirectly any state support or is operated on property owned or rented by the state shall for each of its employees file with the licensing agency a complete set of fingerprints taken by an authorized law enforcement officer. The agency shall submit the fingerprints to the Department of Law Enforcement for state processing and to the Federal Bureau of Investigation for federal processing. The cost of processing shall be borne by the facility or the employee.*

On motion by Senator Fox, by two-thirds vote HB 19-A was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Barron	Deratany	Grant	Kirkpatrick
Beard	Dunn	Grizzle	Kiser
Carlucci	Fox	Hair	Langley
Castor	Frank	Hill	Mann
Childers, D.	Gersten	Jenne	Margolis
Childers, W. D.	Girardeau	Jennings	McPherson
Crawford	Gordon	Johnson	Meek

Myers	Plummer	Thomas	Weinstein
Neal	Scott	Thurman	
Peterson	Stuart	Vogt	

Nays—None

Explanation of Vote

I voted "Yes" on this amended version of this bill fully realizing that once again we are doing something that is barely better than nothing.

In 1984 the Legislature passed HB 969 which in part stated that each applicant for teacher certification "file a complete set of fingerprints taken by an authorized law enforcement officer which shall be submitted to the Department of Law Enforcement for state processing and to the Federal Bureau of Investigation for federal processing; the cost of such processing shall be borne by the applicant."

It is difficult to understand why we mandate the fingerprinting of teachers yet resist requiring it of day care owners, operators or workers.

I attempted to amend the bill to provide a statement of State policy wherein fingerprints would be required when State money is used in connection with a day care center. It was defeated. The defeat does not mean the amendment was bad...it simply meant there were more votes in opposition to this policy than there were for it.

Again, something is better than nothing and I voted for the bill.

Joe Carlucci, Eighth District

The President presiding

On motion by Senator Myers, by the required constitutional two-thirds vote of the Senate the following bill was admitted for introduction:

By Senator Myers—

SB 13-A—A bill to be entitled An act relating to medical practice; amending s. 474.214, F.S., requiring a licensee to report certain violations; amending s. 458.303, F.S.; limiting the issuance of medical faculty certificates; amending s. 458.307, F.S.; permitting medical college physicians to be members of the board; amending ss. 458.311, 458.313 and 458.319, F.S.; increasing maximum license fees; clarifying educational requirements for licensure; clarifying examination requirements for licensure by endorsement; relating to graduates of foreign medical schools; creating s. 458.349, F.S.; defining "medical assistant"; providing for duties; providing for certification; amending s. 458.347, F.S.; changing exceptions to the requirements for programs for the education and training of physician's assistants; amending s. 381.494, F.S.; renaming osteopathic facilities; providing an effective date.

—was read the first time by title and referred to the Committee on Health and Rehabilitative Services.

On motions by Senator Myers, by two-thirds vote SB 13-A was withdrawn from the Committee on Health and Rehabilitative Services, and by two-thirds vote placed on the special order calendar.

On motions by Senator Myers, by two-thirds vote SB 13-A was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Frank	Johnson	Peterson
Barron	Gersten	Kirkpatrick	Plummer
Beard	Girardeau	Kiser	Scott
Carlucci	Gordon	Langley	Stuart
Childers, D.	Grant	Mann	Thomas
Childers, W. D.	Grizzle	Margolis	Thurman
Crawford	Hair	McPherson	Vogt
Deratany	Hill	Meek	Weinstein
Dunn	Jenne	Myers	
Fox	Jennings	Neal	

Nays—None

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has amended Senate Amendments 1, 2, and 3, concurred in same as amended and passed HB 16-A as amended and requests the concurrence of the Senate.

Allen Morris, Clerk

HB 16-A—A bill to be entitled An act relating to citrus canker; appropriating moneys for the annual period beginning July 1, 1984, and ending June 30, 1985, for purposes of matching federal expenditures for the purpose of citrus canker eradication and indemnification; supplementing appropriations made by chapter 84-220, Laws of Florida; specifying the calculations for indemnification; restricting appropriations made by Chapter 84-220, Laws of Florida; providing an effective date.

House Amendment 1 to Senate Amendment 1—On page 1, strike the WHEREAS clauses, and insert:

WHEREAS, citrus production in Florida is threatened by the bacterial disease citrus canker, and

WHEREAS, although there is no legal obligation on the part of the State of Florida to do so, it is recognized as being in the best interests of the state that state funds be provided both for financial assistance to the citrus industry and for eradication of citrus canker by destruction of infected and exposed plants to prevent the spread of the bacterium, and

WHEREAS, although authority exists under s. 601.15(7)(c), Florida Statutes, for moneys in the Florida Citrus Advertising Trust Fund to be used to alleviate the citrus canker crisis without the necessity of any legislative action, the Legislature has determined that appropriation of general state revenues is an acceptable alternative, and

WHEREAS, the Legislature will consider creating a funding source to alleviate agricultural emergencies in the 1985 Regular Session, and

WHEREAS, because of the statewide economic impact of the citrus industry on the general economy of the State of Florida, funds should be provided from the general revenues of the State of Florida to accomplish this purpose, NOW, THEREFORE,

House Amendment 1 to Senate Amendment 2—On pages 1-3, strike everything after the enacting clause, and insert:

Section 1. The moneys in the following specific appropriations are appropriated from the named fund for the fiscal year 1984-1985 to the state agency indicated, to be used to supplement the appropriations made in section 1 of chapter 84-220, Laws of Florida, as supplemental amounts to be used to pay costs related to citrus canker eradication and financial assistance.

AGRICULTURE AND CONSUMER SERVICES, DEPARTMENT OF

Division of Plant Industry

1 Special Categories	
Citrus Canker Eradication	
General Revenue Fund	\$3,000,000

The Department of Agriculture and Consumer Services shall develop an expenditure plan which shall be reviewed and approved by the Administration Commission prior to the release of these funds in specific appropriation 1.

2 Special Categories	
Citrus Canker Financial Assistance	
General Revenue Fund	\$3,400,000

It is the intent of the Legislature that the Department of Agriculture and Consumer Services engage in a financial assistance program through June 30, 1985. Funds in specific appropriation 2 shall be used to cover the total existing need established as of November 16, 1984, for financial assistance and shall be used to financially assist parties whose citrus trees were lawfully destroyed or identified to be destroyed as of that date in compliance with the state-federal eradication program. The expenditure of such funds shall immediately cease in the event that federal matching funds are not forthcoming. The department shall coordinate its activities relating to specific appropriation 2 with the United States Department of Agriculture to assure that no person twice receives assistance for the same loss. No person may receive financial assistance from such funds unless he, in writing submitted to the department, releases the state from liability for any losses arising out of inspection, control, or eradication of citrus canker. The appropriation of funds in specific appropriation 2 does not constitute a recognition of state liability for losses arising out of citrus canker or out of activities to control citrus canker or a commitment on the part of the state to provide financial assistance for any future losses arising out of citrus canker or out of activities to control citrus canker.

In developing the plan for expending the funds in specific appropriations 1 and 2, the Department of Agriculture and Consumer Services shall consult with the legislative work papers pursuant to chapter 216, Florida Statutes. With respect to the activities funded in specific appropriations 1 and 2, the Florida Department of Citrus in cooperation with all of the citrus industry, including, but not limited to, the citrus nursery industry, the lime and lemon growers, and other citrus growers, shall submit to the President of the Senate and the Speaker of the House of Representatives by April 1, 1985, a proposal to create a sufficient revolving emergency fund from sources other than general revenue for control, inspection, and eradication of hazards to the production of citrus and for financial assistance to persons suffering losses because of emergencies in the citrus industry and related industries. The proposal shall provide for such activity and assistance only with respect to events occurring after June 30, 1985. The commission may propose the use of funds under its discretionary control to finance the proposal. The proposal shall identify the fund level at which moneys are to be replaced in the revolving fund. The proposal shall specifically provide that the state shall not be liable for any future losses or be committed to any future assistance.

Section 2. This act shall take effect upon becoming a law.

House Amendment 1 to Senate Amendment 3—In title, on page 1, lines 12-20, strike all of said lines, and insert: An act relating to citrus; providing appropriations for inspection, control, and eradication of citrus canker and for financial assistance to persons suffering losses because of citrus canker; requiring the Department of Citrus to submit to the Legislature a proposal for creation of a fund to provide for future emergencies in the citrus industry and related industries; providing an effective date.

On motions by Senator Neal, the Senate concurred in the House amendments to the Senate amendments.

HB 16-A passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—39

Mr. President	Fox	Jennings	Neal
Barron	Frank	Johnson	Peterson
Beard	Gersten	Kirkpatrick	Plummer
Carlucci	Girardeau	Kiser	Scott
Castor	Gordon	Langley	Stuart
Childers, D.	Grant	Mann	Thomas
Childers, W. D.	Grizzle	Margolis	Thurman
Crawford	Hair	McPherson	Vogt
Deratany	Hill	Meek	Weinstein
Dunn	Jenne	Myers	

Nays—None

Disclosure Pursuant to Rule 1.39

I have a possible conflict of interest on the citrus canker issue.

I represent Crittenden Fruit Company of Groveland, Florida. Crittenden has been sued by the Department of Agriculture in regard to the destruction of approximately 10,700 young trees. I am defending Crittenden and have filed a counter-claim against the Department.

I do not have a contingency interest, and I intend to dismiss the suit when the indemnification bill is passed.

Richard H. Langley, District 11

The Senate recessed at 5:51 p.m.

The Senate was called to order by the President at 6:07 p.m. A quorum present.

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has passed with amendments, by the required Constitutional three-fifths vote of all members—

SB 1-A—A bill to be entitled An act relating to taxation; repealing s. 220.135, F.S., which provides special reporting requirements for unitary business groups with respect to the corporate income tax; amending s. 220.64, F.S.; correcting a reference; amending s. 220.14, F.S., relating to exemptions, to delete reference to unitary business groups; amending s. 220.03, F.S.; revising the definition of “unitary business group”; revising

provisions relating to certain elections taxpayers may make; amending s. 220.131, F.S.; revising provisions relating to filing of consolidated returns by members of affiliated groups; amending s. 220.13, F.S.; revising additions and subtractions applicable in computing adjusted federal income; amending s. 220.63, F.S., relating to the franchise tax on banks and savings associations; including reference to certain subtractions; amending s. 214.71, F.S., relating to administrative provisions for designated non-property taxes; revising provisions for determining when sales of tangible personal property are in this state; amending s. 220.03, F.S.; revising the definition of “nonbusiness income” and defining “functionally related dividends”; amending s. 220.63, F.S., relating to the franchise tax on banks and savings associations; revising calculation of the tax base; amending s. 220.03, F.S.; revising the definition of “Internal Revenue Code”; amending ss. 221.01, 221.02, 221.04, and 220.03, F.S.; revising the expiration date of the emergency excise tax; deleting provisions which authorize taxpayers to make certain subsequent election with respect to applicability of the Internal Revenue Code; amending s. 212.11, F.S.; providing an additional method for calculating estimated tax liability; providing for phased reduction and repeal of the estimated tax liability percentage with respect to tax on sales, use, and other transactions; amending s. 212.12, F.S.; authorizing the Department of Revenue to waive or compromise certain penalties with respect to estimated tax payments; providing for applying specified penalties to consolidated returns under certain circumstances; amending ss. 220.11 and 220.63, F.S.; increasing the corporate income tax and franchise tax on banks and savings associations; providing for review; amending s. 221.01, F.S.; increasing the emergency excise tax rate; providing for recomputation of estimated corporate tax due; creating s. 220.211, F.S.; providing penalties for incomplete returns; providing specific, contingent, and retroactive effective dates.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 3, line 1, strike everything after the Enacting Clause and insert the following:

Section 1. Effective upon this act becoming a law, and applicable to tax years beginning on or after September 1, 1984, section 220.135, Florida Statutes, as created by chapter 83-349, Laws of Florida, is hereby repealed.

Section 2. Effective upon this act becoming a law, and applicable to tax years beginning on or after September 1, 1984, section 220.64, Florida Statutes, is amended to read:

220.64 Other provisions applicable to franchise tax.—To the extent that they are not manifestly incompatible with the provisions of this part, parts I, III, IV, V, and VI of this code and ss. 220.12, 220.13, ~~220.135~~, and 220.16 apply to the franchise tax imposed by this part. Under rules prescribed in s. 220.131, a consolidated return may be filed by any affiliated group of corporations composed of one or more banks or savings associations, its or their Florida parent corporation, and any nonbank or nonsavings subsidiaries of such parent corporation.

Section 3. Effective upon this act becoming a law, and applicable to tax years beginning on or after September 1, 1984, subsection (3) of section 220.14, Florida Statutes, is amended to read:

220.14 Exemption.—

(3) Only one exemption shall be allowed ~~to a unitary business group~~ or to taxpayers filing a consolidated return under this code.

Section 4. Effective upon this act becoming a law, and applicable retroactively to September 1, 1982 (as the amendments provided by this section are expressly intended to clarify any prior ambiguity which may have existed as to the intent of the Legislature), paragraph (bb) of subsection (1) and paragraph (c) of subsection (5) of section 220.03, Florida Statutes, 1984 Supplement, are amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(bb) For purposes only of the administration of the tax law as in effect for the period September 1, 1982, through August 31, 1984, “unitary business group” means a group of two or more corporations, at least one of which is a Florida taxpayer, ~~taxpayers~~ related through common

ownership whose business activities are integrated with, are dependent upon, or contribute to a flow of value among members of the group. When direct or indirect ownership or control is 50 percent or more of the outstanding voting stock, the group shall be considered to be a unitary business group unless clearly shown by the facts and circumstances of the individual case to be a nonunitary business group. When direct or indirect ownership or control is less than 50 percent of the outstanding voting stock, all elements of the business activities shall be considered in determining whether the group qualifies as a unitary business group.

(5)

(c) A taxpayer may make an election, in the manner prescribed by the department, by August 26, 1982, or a taxpayer filing an initial return may make an election upon filing the first return for the tax due under this chapter, whichever is later, to report and pay the tax levied by this chapter as if:

1. The Internal Revenue Code of 1954, as amended and in effect on January 1, 1980, is in effect indefinitely thereafter; and

2. Solely for the purpose of computing depreciation deductions, the provisions of chapter 220, Florida Statutes, 1980 Supplement, are in effect indefinitely thereafter.

For the purposes of taxation of taxpayers who make the election provided for in this paragraph, the Internal Revenue Code of 1954, as amended and in effect on January 1, 1980, shall include, for tax years beginning on or after January 1, 1982, the provisions of the Foreign Investment in Real Property Tax Act of 1980, Subtitle C of Title XI of Pub. L. No. 96-499 and the amendments to those provisions codified in the Internal Revenue Code, as defined in paragraph (1)(n). Taxpayers may one time only revoke an election made pursuant to this paragraph, in accordance with rules formulated by the department. Such revocation shall be prospective in nature, and all transactions and events occurring during the period during which the election provided for in this paragraph is in effect and the continuing tax ramifications of such events and transactions shall be governed by the provisions of this paragraph.

Section 5. Paragraph (e) is added to subsection (1) of section 220.13, Florida Statutes, 1984 Supplement, to read:

220.13 "Adjusted federal income" defined.—

(1) The term "adjusted federal income" means an amount equal to the taxpayer's taxable income as defined in subsection (2), or such taxable income of more than one taxpayer as provided in s. 220.131, for the taxable year, adjusted as follows:

(e) A deduction for net operating losses, net capital losses, or excess contributions deductions under ss. 170(d)(2), 172, 1212, and 404 of the Internal Revenue Code which has been allowed in a prior taxable year for Florida tax purposes shall not be allowed for Florida tax purposes, notwithstanding the fact that such deduction has not been fully utilized for federal tax purposes.

Section 6. Effective upon this act becoming a law, and applicable to tax years beginning on or after September 1, 1984, subsection (1) of section 220.131, Florida Statutes, is amended to read:

220.131 Adjusted federal income; affiliated groups.—

(1) Notwithstanding any prior election made with respect to consolidated returns, and subject to subsection (5), for taxable years beginning on or after September 1, 1984, any corporation subject to tax under this code, ~~except members of a unitary business group,~~ which corporation is the parent company of an affiliated group of corporations may elect, not later than the due date for filing its return for the taxable year, including any extensions thereof, to consolidate its taxable income with that of all other members of the group, regardless of whether such member is subject to tax under this code, and to return such consolidated taxable income hereunder, in which case all such other members must consent thereto in such manner as the department may by rule regulation prescribe. ~~Any Florida parent company of an affiliated group of corporations which is not a member of a unitary business group may elect to consolidate its taxable income with all other members of the affiliated group, even though some of its members are not subject to tax under this code,~~ provided:

(a) Each member of the group consents to such filing by specific written authorization at the time the consolidated return is filed;

(b) The affiliated group so filing under this code has filed a consolidated return for federal income tax purposes for the same taxable year; and

(c) The affiliated group so filing under this code is composed of the identical component members as those which have consolidated their taxable incomes in such federal return.

However, the parent corporation of an affiliated group which filed a consolidated return under this code for the taxable year immediately preceding the taxable year of such group beginning on or after September 1, 1982, may, subject to these provisions, elect to consolidate its income with that of all other members of the group which would have been included as members under this section as amended and in effect prior to chapter 83-349, Laws of Florida, becoming a law, and to return such consolidated taxable income hereunder. Such election shall be made within 90 days of the date this act becomes a law.

Section 7. Effective upon this act becoming a law, and applicable to tax years beginning on or after September 1, 1984, paragraph (b) of subsection (1) of section 220.13, Florida Statutes, 1984 Supplement, is amended to read:

220.13 "Adjusted federal income" defined.—

(1) The term "adjusted federal income" means an amount equal to the taxpayer's taxable income as defined in subsection (2), or such taxable income of more than one taxpayer as provided in s. 220.131, for the taxable year, adjusted as follows:

(b) Subtractions.—

1. In computing the net operating loss deduction allowable for federal income tax purposes under s. 172 of the Internal Revenue Code for the taxable year, the net capital loss allowable for federal income tax purposes under s. 1212 of the Internal Revenue Code for the taxable year, the excess charitable contribution deduction allowable for federal income tax purposes under s. 170(d)(2) of the Internal Revenue Code for the taxable year, and the excess contributions deductions allowable for federal income tax purposes under s. 404 of the Internal Revenue Code for the taxable year, there shall be subtracted from taxable income, in order to arrive at adjusted federal income, such amounts as reflect the following limitations:

a. No deduction may be allowed for net operating losses, net capital losses, and excess contributions deductions under ss. 170(d)(2) and 404 of the Internal Revenue Code which are carried forward from taxable years ending prior to January 1, 1972;

b. The net operating loss, net capital loss, and excess contributions deductions under ss. 170(d)(2) and 404 of the Internal Revenue Code, respectively, allowable for any taxable year beginning before and ending after January 1, 1972, shall be limited to an amount which bears the same ratio to the taxpayer's net operating loss, net capital loss, and excess contributions deductions under ss. 170(d)(2) and 404 of the Internal Revenue Code, respectively, for the entire taxable year as the number of days in such year after December 31, 1971, bears to the total number of days in such year, unless the taxpayer elects to account separately for income under s. 220.12(3) of this code, in which case the net operating loss, net capital loss, and excess contributions deductions under ss. 170(d)(2) and 404 of the Internal Revenue Code, respectively, allowable for such year shall be determined on the basis of the items actually earned, received, paid, incurred, or accrued after December 31, 1971; and

c. A net operating loss and a capital loss shall never be carried back as a deduction to a prior taxable year, but all deductions attributable to such losses shall be deemed net operating loss carryovers and capital loss carryovers, respectively, and treated in the same manner, to the same extent, and for the same time periods as are prescribed for such carryovers in ss. 172 and 1212, respectively, of the Internal Revenue Code; and

d. ~~No deduction may be allowed for net operating losses, net capital losses, or excess contributions deductions under ss. 170(d)(2), 172, 1212, and 404 of the Internal Revenue Code for a non-United States member of a unitary business group.~~

2. There shall be subtracted from such taxable income any amount to the extent included therein ~~the following: by a member of a unitary business group, which amount was received as a dividend paid by another member of the same unitary business group.~~

a. Dividends treated as received from sources without the United States, as determined under s. 862 of the Internal Revenue Code.

b. All amounts included in taxable income under s. 78 of the Internal Revenue Code.

However, as to any amount subtracted under this subparagraph, there shall be added to such taxable income all expenses deducted on the taxpayer's return for the taxable year which are attributable, directly or indirectly, to such subtracted amount. Further, no amount shall be subtracted with respect to dividends paid or deemed paid by a Domestic International Sales Corporation.

3. In computing "adjusted federal income" for taxable years beginning after December 31, 1976, there shall be allowed as a deduction the amount of wages and salaries paid or incurred within this state for the taxable year for which no deduction is allowed pursuant to s. 280C of the Internal Revenue Code (relating to credit for employment of certain new employees).

4. There shall be subtracted from such taxable income any amount of nonbusiness income included therein.

5. Notwithstanding any other provision of this code, except with respect to amounts subtracted pursuant to subparagraphs 1. and 3., any increment of any apportionment factor which is directly related to an increment of gross receipts or income which is deducted, subtracted, or otherwise excluded in determining adjusted federal income shall be excluded from both the numerator and denominator of such apportionment factor. Further, all valuations made for apportionment factor purposes shall be made on a basis consistent with the taxpayer's method of accounting for federal income tax purposes.

Section 8. Effective upon this act becoming a law, and applicable to tax years beginning on or after September 1, 1984, subsection (5) of section 220.63, Florida Statutes, is amended to read:

220.63 Franchise tax imposed on banks and savings associations.—

(5) There shall be allowed as a deduction from adjusted federal income, to the extent not deductible in determining federal taxable income or subtracted pursuant to s. 220.13(1)(b)2., the eligible net income of an international banking facility determined as follows:

(a) The "eligible net income of an international banking facility" is the amount remaining after subtracting from the eligible gross income the applicable expenses.

(b) The "eligible gross income" is the gross income derived by an international banking facility from:

1. Making, arranging for, placing, or servicing loans to foreign persons, provided, however, that in the case of a foreign person which is an individual, a foreign branch of a domestic corporation (other than a bank or savings association), or a foreign corporation or a foreign partnership which is 80 percent or more owned or controlled, either directly or indirectly, by one or more domestic corporations (other than banks or savings associations), domestic partnerships, or resident individuals, substantially all the proceeds of the loan are for use outside the United States;

2. Making or placing deposits with foreign persons which are banks or savings associations or foreign branches of banks or savings associations, including foreign subsidiaries or foreign branches of the taxpayer, or with other international banking facilities; or

3. Entering into foreign exchange trading or hedging transactions in connection with the activities described in this paragraph.

However, the term "eligible gross income" does not include any amount derived by an international banking facility from making, arranging for, placing, or servicing loans or making or placing deposits if the loans or deposits of funds are secured by mortgages, deeds of trust, or other liens upon real property located in this state.

(c) The "applicable expenses" are any expenses or other deductions attributable, directly or indirectly, to the eligible gross income described in paragraph (b).

Section 9. Effective upon this act becoming a law, and applicable to tax years beginning on or after September 1, 1984, paragraph (a) of subsection (3) of section 214.71, Florida Statutes, is amended to read:

214.71 Apportionment; general method.—Except as otherwise provided in ss. 214.72 and 214.73, the base upon which any tax made applicable to this chapter shall be apportioned shall be determined by multiplying same by a fraction the numerator of which is the sum of the property factor, the payroll factor, and the sales factor and the denominator of which is 3. In the event any of the factors described in subsection (1), subsection (2), or subsection (3) has a denominator which is zero or is determined by the department to be insignificant, the denominator of the apportionment fraction shall be reduced by the number of such factors.

(3) The sales factor is a fraction the numerator of which is the total sales of the taxpayer in this state during the taxable year or period and the denominator of which is the total sales of the taxpayer everywhere during the taxable year or period.

(a)1. Sales of tangible personal property are in this state if the property is delivered or shipped to a purchaser within this state, regardless of the f.o.b. point, other conditions of the sale, or ultimate destination of the property, or if the property is shipped from an office, store, warehouse, factory, or other place of storage in this state and either the purchaser is the United States Government or the taxpayer is not subject to a tax upon or measured by income in the state to which the sale would be assigned absent this paragraph.

2. When citrus fruit is delivered by a cooperative for a grower-member, by a grower-member to a cooperative, or by a grower-participant to a Florida processor, the sales factor for such growers for such citrus fruit delivered to such processor shall be the same as the sales factor for the most recent taxable year of that processor. That sales factor, expressed only as a percentage and not in terms of the dollar volume of sales, so as to protect the confidentiality of the sales of the processor, shall be furnished on the request of such a grower promptly after it has been determined for that taxable year.

3. Reimbursement of expenses under an agency contract between a cooperative, a grower-member of a cooperative, or a grower and a processor will not be deemed a sale within this state.

Section 10. Effective upon this act becoming a law, the Department of Revenue is directed to conduct a survey of two randomly selected samples of taxpayers from the set of those likely to be impacted as determined to be appropriate samples by the department, based upon taxable years ended in 1983, to estimate the revenue consequences of reinstatement of the ultimate destination standard in the assignment to this state of sales of tangible property shipped or delivered for sales factor purposes pursuant to s. 214.71(3)(a).

1. The first sample shall consist of not less than 200 taxpayers whose tax payments for 1983 exceeded \$100,000, and the second sample shall consist of not less than 2000 taxpayers whose tax payments for 1983 were less than \$100,000.

2. Taxpayers shall furnish to the department in an expeditious manner the information that the department deems reasonably required and requests to conduct this survey.

3. If the response rate of each sample group exceeds 40 percent by February 1, 1985, the department is directed to verify, to the extent deemed necessary by the department, and analyze all responses and furnish to the President of the Senate and the Speaker of the House of Representatives the results of the survey not later than May 1, 1985.

4. There is hereby appropriated to the Department of Revenue the sum of \$50,000 for fiscal year 1984-85. The department is hereby authorized to implement and conduct the survey as specified in this act employing present personnel to conduct the necessary verification.

Section 11. Effective upon this act becoming a law, and applicable to tax years beginning on or after September 1, 1984, paragraph (r) of subsection (1) of section 220.03, Florida Statutes, 1984 Supplement, is amended, and paragraph (dd) is added to said subsection to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(r) "Nonbusiness income" means rents and royalties from real or tangible personal property, capital gains, interest, dividends, and patent and copyright royalties, to the extent that they do not arise from transactions

and activities in the regular course of the taxpayer's trade or business. The term "nonbusiness income" does not include income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations. *For purposes of this definition, "income" means gross receipts less all expenses directly or indirectly attributable thereto. Functionally related dividends are presumed to be business income.*

(dd) "Functionally related dividends" include the following types of dividends:

1. Those received from a subsidiary of which the voting stock is more than 50 percent owned or controlled by the taxpayer or members of its affiliated group and which is engaged in the same general line of business.

2. Those received from any corporation which is either a significant source of supply for the taxpayer or its affiliated group or a significant purchaser of the output of the taxpayer or its affiliated group, or which sells a significant part of its output or obtains a significant part of its raw materials or input from the taxpayer or its affiliated group. "Significant" means an amount of 15 percent or more.

3. Those resulting from the investment of working capital or some other purpose in furtherance of the taxpayer or its affiliated group.

Section 12. Effective upon this act becoming a law, and applicable retroactively to September 1, 1982 (as the amendments provided by this section are expressly intended to clarify any prior ambiguity which may have existed as to the intent of the Legislature), subsection (3) of section 220.63, Florida Statutes, is amended to read:

220.63 Franchise tax imposed on banks and savings associations.—

(3) For purposes of this part, the franchise tax base shall be adjusted federal income, as defined in s. 220.13, apportioned to this state, plus nonbusiness income allocated to this state pursuant to s. 220.16, less the deduction allowed in subsection (5) and less \$5,000.

Section 13. Paragraph (n) of subsection (1) and paragraph (c) of subsection (2) of section 220.03, Florida Statutes, 1984 Supplement, are amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(n) "Internal Revenue Code" means the United States Internal Revenue Code of 1954, as amended and in effect on September 1, 1984, January 12, 1983, except as provided in subsection (3).

(2) DEFINITIONAL RULES.—When used in this code and neither otherwise distinctly expressed nor manifestly incompatible with the intent thereof:

(c) Any term used in this code shall have the same meaning as when used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes, as such code and statutes are in effect on September 1, 1984, January 12, 1983. However, if subsection (3) is implemented, the meaning of any term shall be taken at the time the term is applied under this code.

Section 14. Section 220.211, Florida Statutes, is created to read:

220.211 Penalties; incomplete return.—

(1) In the case where an incomplete return is made, notwithstanding that no tax is finally determined to be due for the taxable year, there shall be added to the amount of tax, penalty, and interest otherwise due a penalty in the amount of \$150 or 5 percent of the tax finally determined to be due, whichever is greater; however, such penalty shall not exceed \$5,000. The department may settle or compromise such penalties pursuant to s. 213.21.

(2) An "incomplete return" is, for the purposes of this code, a return which is lacking such uniformity, completeness, and arrangement that physical handling, verification, or review of the return may not be readily accomplished.

Section 15. Subsection (2) of section 221.01, Florida Statutes, is amended to read:

221.01 Emergency excise tax; generally.—

(2) Subsection (1) and any subsequent amendments to the provisions contained in that subsection shall expire and be void for taxable years beginning after June 30, 1985, December 31, 1984.

Section 16. Subsection (2) of section 221.02, Florida Statutes, is amended to read:

221.02 Credit for emergency excise tax paid.—

(2) Subsection (1) and any subsequent amendments to the provisions contained in that subsection shall expire and be void for taxable years beginning after June 30, 1985, December 31, 1984.

Section 17. Subsection (2) of section 221.04, Florida Statutes, is amended to read:

221.04 Administration of tax.—

(2) Subsection (1) and any subsequent amendments to the provisions contained in that subsection shall expire and be void for taxable years beginning after June 30, 1985, December 31, 1984.

Section 18. Paragraph (e) of subsection (5) and subsection (6) of section 220.03, Florida Statutes, 1984 Supplement, are amended to read:

220.03 Definitions.—

(5)

~~(e) A taxpayer who does not initially make the election provided for in paragraph (e) within the time period specified therein may subsequently make an election, in accordance with rules formulated by the department, to report and pay the tax as levied by this chapter as provided in that paragraph, except that the power to revoke the election provided in that paragraph shall not be available to such taxpayer. Such election shall be prospective in nature, and all transactions and events occurring during the period during which the initial method of tax treatment is in effect and the continuing tax ramifications of such events and transactions shall be governed by the provisions applicable to such method.~~

(6) The amendments contained in s. 1 of chapter 82-232, Laws of Florida, and any subsequent amendments to the provisions contained in that section shall expire and be void for taxable years beginning after June 30, 1985, December 31, 1984. Unused credits for emergency excise taxes paid pursuant to chapter 221 for taxable years beginning before July January 1, 1985, shall continue to be available as provided in s. 221.02.

Section 19. Paragraphs (a) and (d) of subsection (1) of section 212.11, Florida Statutes, are amended, and subsection (4) is added to said section to read:

212.11 Tax returns and regulations.—

(1)(a)1. Each dealer shall calculate his The estimated tax liability for any month by one of the following methods equals:

a. Sixty-six ~~either~~ 66 percent of the current month's liability pursuant to this part as shown on the tax return; ~~or~~

b. Sixty-six 66 percent of the tax reported on the tax return pursuant to this part by a dealer for the taxable transactions sales occurring during the corresponding month of the preceding calendar year; ~~or~~

c. Sixty-six percent of the average tax liability pursuant to this part for those months during the preceding calendar year in which the dealer reported taxable transactions. ~~The department is empowered to establish the estimated tax liability in cases in which a dealer was not registered for sales tax purposes during such month.~~

2. Any estimated tax liability of \$1,650 or more shall be due, payable, and remitted by the 20th day of the month for which the liability applies. The difference between the estimated tax liability paid and the actual amount and taxes due under this part for such month shall become due and payable by the first day of the following month and shall be remitted by the 20th day thereof.

3. For any dealer who has an estimated had a tax liability of less than \$1,650 or who was not registered for sales tax purposes \$2,500 for the corresponding month of the preceding year, the current taxes levied pursuant to this part shall be due and payable monthly on the first day of the following month and shall be remitted by the 20th day thereof.

(d) The department shall accept returns as timely if postmarked on or before the 20th day of the month; if the 20th day falls on a Saturday, Sunday, or federal or state legal holiday, returns shall be accepted as timely if postmarked on the next succeeding workday. Any dealer who operates two or more places of business for which returns are required to be filed with the department and maintains records for such places of business in a central office or place shall have the privilege on each reporting date of filing a consolidated return for all such places of business in lieu of separate returns for each such place of business; however, such consolidated returns must clearly indicate the amounts collected within each county of the state. *Any dealer who files a consolidated return shall calculate his estimated tax liability for each county by the same method he uses to calculate his estimated tax liability on the consolidated return as a whole.* Each dealer shall file a return for each tax period even though no tax is due for such period.

(4) *The 66 percent rate provided in subsection (1) shall be reduced over a period of 5 years beginning January 1, 1986, and is repealed December 31, 1990. During such period the following rates shall be applicable:*

(a) *From January 1, 1986, through December 31, 1986, the rate shall be 50 percent.*

(b) *From January 1, 1987, through December 31, 1987, the rate shall be 40 percent.*

(c) *From January 1, 1988, through December 31, 1988, the rate shall be 30 percent.*

(d) *From January 1, 1989, through December 31, 1989, the rate shall be 20 percent.*

(e) *From January 1, 1990, through December 31, 1990, the rate shall be 10 percent.*

Section 20. Paragraph (b) of subsection (2) of section 212.12, Florida Statutes, 1984 Supplement, is amended, and paragraph (c) is added to said subsection to read:

212.12 Dealer's credit for collecting tax; penalties for noncompliance; powers of Department of Revenue in dealing with delinquents; brackets applicable to taxable transactions; records required.—

(2)

(b). When any person, firm, or corporation fails to timely remit the proper estimated payment required under s. 212.11, a specific penalty shall be added in an amount equal to 5 percent of any unpaid estimated tax. *Through December 31, 1984, under no circumstances may this penalty shall be waived by the department unless the department has determined that there was willful intent by the dealer to evade payment of the tax. Beginning with January 1, 1985, returns, the department, upon a showing of reasonable cause, is authorized to waive or compromise penalties imposed by this paragraph.* However, other penalties and interest shall be due and payable if the return on which the estimated payment was due was not timely or properly filed.

(c) *Dealers filing a consolidated return pursuant to s. 212.11(1)(d) shall be subject to the penalty established in paragraph (b) only on the amount of unpaid estimated taxes calculated for their consolidated return as a whole. Said penalty shall not apply to amounts indicated as collected in each county.*

Section 21. Effective upon this act becoming a law, if approved by a three-fifths vote of the membership of each house of the Legislature, and applicable to tax years beginning on or after September 1, 1984, subsection (2) of section 220.11, Florida Statutes, is amended to read:

220.11 Tax imposed.—

(2) The tax imposed by this section shall be an amount equal to 5 1/2 percent of the taxpayer's net income for the taxable year. *The increase in the tax imposed by this section provided by this act shall be reviewed by the Legislature at the regular session of 1989 and may be reduced by a majority vote of the membership of each house of the Legislature.*

Section 22. Effective upon this act becoming a law, if approved by a three-fifths vote of the membership of each house of the Legislature, and applicable to tax years beginning on or after September 1, 1984, subsection (2) of section 220.63, Florida Statutes, is amended to read:

220.63 Franchise tax imposed on banks and savings associations.—

(2) The tax imposed by this section shall be an amount equal to 5 1/2 percent of the franchise tax base of the bank or savings association for the taxable year. *The increase in the tax imposed by this section provided by this act shall be reviewed by the Legislature at the regular session of 1989 and may be reduced by a majority vote of the membership of each house of the Legislature.*

Section 23. Effective upon this act becoming a law, and applicable to tax years beginning on or after September 1, 1984, paragraphs (a) and (b) of subsection (1) of section 221.01, Florida Statutes, are amended to read:

221.01 Emergency excise tax; generally.—

(1) The department shall charge and collect an emergency excise tax for each taxable year from every taxpayer liable for the tax imposed by, and required to file a return under, chapter 220, except for those taxpayers subject to s. 220.03(5)(c). The provisions of this chapter shall apply retroactively to all such taxpayers, effective to the effective date of s. 168 of the Internal Revenue Code of 1954, as amended.

(a) The amount of the tax shall be 2.2 2 percent of an amount equal to 2.5 times the remainder of 40 percent of the deduction allowed, in computing adjusted federal income as defined in s. 220.13, under s. 168 of the Internal Revenue Code of 1954, as amended, exclusive of any deduction allowed under s. 168(b)(3) of the Internal Revenue Code of 1954, as amended, apportioned to this state under s. 220.15, minus any unused portion of the exemption provided for in s. 220.14 for the taxable year for which the return is required to be filed by chapter 220.

(b) If the taxpayer's net income, as defined in s. 220.12, for the taxable year for which the return required by chapter 220 is filed is a net operating loss under chapter 220, excluding any net operating loss carryovers and carrybacks, the amount of the tax shall be 2.2 2 percent of an amount equal to 2.5 times the remainder of:

1. Forty percent of the deduction allowed, in computing adjusted federal income as defined in s. 220.13, under s. 168 of the Internal Revenue Code of 1954, as amended, exclusive of any deduction allowed under s. 168(b)(3) of the Internal Revenue Code of 1954, as amended, apportioned to this state under s. 220.15, minus any unused portion of the exemption provided for in s. 220.14 for the taxable year for which the return is required to be filed by chapter 220; minus

2. The net operating loss, as apportioned to this state under s. 220.15, excluding any net operating loss carryovers and carrybacks.

Section 24. *Each corporate taxpayer whose tax year begins on or after January 1, 1984, shall be required to recompute the estimated tax due for such taxable year and shall make the appropriate adjustments, if any, to the remaining estimated payments to insure full compliance with the applicable provisions of this act. Notwithstanding the provisions of s. 220.34, Florida Statutes, estimated tax payments based upon the facts shown on the return for, and the law applicable to, the preceding taxable year shall be recomputed as though the provisions of this act were applicable in said preceding taxable year. No penalty or interest shall be applied to the next estimated tax payment due by January 1, 1985, for a period of 30 days from the due date.*

Section 25. Except as otherwise provided herein, this act shall take effect upon becoming a law.

Amendment 2—On page 1 in the title, lines 1-31 and page 2, lines 1-27, strike the entire title and insert: A bill to be entitled An act relating to taxation; repealing s. 220.135, F.S., which provides special reporting requirements for unitary business groups with respect to the corporate income tax; amending s. 220.64, F.S.; correcting a reference; amending s. 220.14, F.S., relating to exemptions, to delete reference to unitary business groups; amending s. 220.03, F.S.; revising the definition of "unitary business group"; revising provisions relating to certain elections taxpayers may make; amending s. 220.13, F.S.; revising adjustments applicable in computing adjusted federal income; amending s. 220.131, F.S.; revising provisions relating to filing of consolidated returns by members of affiliated groups; amending s. 220.13, F.S.; revising subtractions applicable in computing adjusted federal income; amending s. 220.63, F.S., relating to

the franchise tax on banks and savings associations; including reference to certain subtractions; amending s. 214.71, F.S., relating to administrative provisions for designated nonproperty taxes; revising provisions for determining when sales of tangible personal property are in this state; amending s. 220.15, F.S.; directing the Department of Revenue to conduct a revenue survey; amending s. 220.03, F.S.; revising the definition of "nonbusiness income" and defining "functionally related dividends"; amending s. 220.63, F.S., relating to the franchise tax on banks and savings associations; revising calculation of the tax base; amending s. 220.03, F.S.; revising the definition of "Internal Revenue Code"; creating s. 220.211, F.S.; providing a penalty for filing an incomplete return; amending ss. 221.01, 221.02, 221.04, and 220.03, F.S.; revising the expiration date of the emergency excise tax; deleting provisions which authorize taxpayers to make certain subsequent election with respect to applicability of the Internal Revenue Code; amending s. 212.11, F.S.; revising provisions relating to calculation and payment of estimated tax liability with respect to tax on sales, use, and other transactions and providing for phased reduction and repeal of the estimated tax liability percentage; amending s. 212.12, F.S.; authorizing the Department of Revenue to waive or compromise certain penalties with respect to estimated tax payments; specifying conditions for application of said penalties to consolidated returns; amending ss. 220.11 and 220.63, F.S.; increasing the corporate income tax and franchise tax on banks and savings associations; providing for review; amending s. 221.01, F.S.; increasing the emergency excise tax rate; providing for recomputation of estimated corporate tax due; providing an appropriation; providing specific and retroactive effective dates.

Senator Crawford moved the following amendments which were adopted:

Amendment 1 to House Amendment 1—On page 1, line "a", strike everything after the colon and strike the rest of the amendment (pages 1-25) and insert:

Section 1. Effective upon this act becoming a law, and applicable to tax years beginning on or after September 1, 1984, section 220.135, Florida Statutes, as created by chapter 83-349, Laws of Florida, is hereby repealed.

Section 2. Effective upon this act becoming a law, and applicable to tax years beginning on or after September 1, 1984, section 220.64, Florida Statutes, is amended to read:

220.64 Other provisions applicable to franchise tax.—To the extent that they are not manifestly incompatible with the provisions of this part, parts I, III, IV, V, and VI of this code and ss. 220.12, 220.13, ~~220.135~~, and 220.16 apply to the franchise tax imposed by this part. Under rules prescribed in s. 220.131, a consolidated return may be filed by any affiliated group of corporations composed of one or more banks or savings associations, its or their Florida parent corporation, and any nonbank or nonsavings subsidiaries of such parent corporation.

Section 3. Effective upon this act becoming a law, and applicable to tax years beginning on or after September 1, 1984, subsection (3) of section 220.14, Florida Statutes, is amended to read:

220.14 Exemption.—

(3) Only one exemption shall be allowed to a unitary business group or to taxpayers filing a consolidated return under this code.

Section 4. Effective upon this act becoming a law, and applicable retroactively to September 1, 1982 (as the amendments provided by this section are expressly intended to clarify any prior ambiguity which may have existed as to the intent of the Legislature), paragraph (bb) of subsection (1) and paragraph (c) of subsection (5) of section 220.03, Florida Statutes, 1984 Supplement, are amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(bb) For purposes only of the administration of the tax law as in effect for the period September 1, 1982, through August 31, 1984, "unitary business group" means a group of two or more corporations, at least one of which is a Florida taxpayer, taxpayers related through common ownership whose business activities are integrated with, are dependent upon, or contribute to a flow of value among members of the group. When

direct or indirect ownership or control is 50 percent or more of the outstanding voting stock, the group shall be considered to be a unitary business group unless clearly shown by the facts and circumstances of the individual case to be a nonunitary business group. When direct or indirect ownership or control is less than 50 percent of the outstanding voting stock, all elements of the business activities shall be considered in determining whether the group qualifies as a unitary business group.

(5)

(c) A taxpayer may make an election, in the manner prescribed by the department, by August 26, 1982, or a taxpayer filing an initial return may make an election upon filing the first return for the tax due under this chapter, whichever is later, to report and pay the tax levied by this chapter as if:

1. The Internal Revenue Code of 1954, as amended and in effect on January 1, 1980, is in effect indefinitely thereafter; and

2. Solely for the purpose of computing depreciation deductions, the provisions of chapter 220, Florida Statutes, 1980 Supplement, are in effect indefinitely thereafter.

For the purposes of taxation of taxpayers who make the election provided for in this paragraph, the Internal Revenue Code of 1954, as amended and in effect on January 1, 1980, shall include, for tax years beginning on or after January 1, 1982, the provisions of the Foreign Investment in Real Property Tax Act of 1980, Subtitle C of Title XI of Pub. L. No. 96-499 and the amendments to those provisions codified in the Internal Revenue Code, as defined in paragraph (1)(n). Taxpayers may one time only revoke an election made pursuant to this paragraph, in accordance with rules formulated by the department. Such revocation shall be prospective in nature, and all transactions and events occurring during the period during which the election provided for in this paragraph is in effect and the continuing tax ramifications of such events and transactions shall be governed by the provisions of this paragraph.

Section 5. Paragraph (e) is added to subsection (1) of section 220.13, Florida Statutes, 1984 Supplement, to read:

220.13 "Adjusted federal income" defined.—

(1) The term "adjusted federal income" means an amount equal to the taxpayer's taxable income as defined in subsection (2), or such taxable income of more than one taxpayer as provided in s. 220.131, for the taxable year, adjusted as follows:

(e) A deduction for net operating losses, net capital losses, or excess contributions deductions under ss. 170(d)(2), 172, 1212, and 404 of the Internal Revenue Code which has been allowed in a prior taxable year for Florida tax purposes shall not be allowed for Florida tax purposes, notwithstanding the fact that such deduction has not been fully utilized for federal tax purposes.

Section 6. Effective upon this act becoming a law, and applicable to tax years beginning on or after September 1, 1984, subsection (1) of section 220.131, Florida Statutes, is amended to read:

220.131 Adjusted federal income; affiliated groups.—

(1) Notwithstanding any prior election made with respect to consolidated returns, and subject to subsection (5), for taxable years beginning on or after September 1, 1984, any corporation subject to tax under this code, ~~except members of a unitary business group~~, which corporation is the parent company of an affiliated group of corporations may elect, not later than the due date for filing its return for the taxable year, including any extensions thereof, to consolidate its taxable income with that of all other members of the group, regardless of whether such member is subject to tax under this code, and to return such consolidated taxable income hereunder, in which case all such other members must consent thereto in such manner as the department may by rule regulation prescribe. ~~Any Florida parent company of an affiliated group of corporations which is not a member of a unitary business group may elect to consolidate its taxable income with all other members of the affiliated group, even though some of its members are not subject to tax under this code~~, provided:

(a) Each member of the group consents to such filing by specific written authorization at the time the consolidated return is filed;

(b) The affiliated group so filing under this code has filed a consolidated return for federal income tax purposes for the same taxable year; and

(c) The affiliated group so filing under this code is composed of the identical component members as those which have consolidated their taxable incomes in such federal return.

However, the parent corporation of an affiliated group which filed a consolidated return under this code for the taxable year immediately preceding the taxable year of such group beginning on or after September 1, 1982, may, subject to these provisions, elect to consolidate its income with that of all other members of the group which would have been included as members under this section as amended and in effect prior to chapter 83-349, Laws of Florida, becoming a law, and to return such consolidated taxable income hereunder. Such election shall be made within 90 days of the date this act becomes a law or upon filing the taxpayer's first return after the date this act becomes a law, whichever is later.

Section 7. Effective upon this act becoming a law, and, except where expressly otherwise provided in this section, applicable to tax years beginning on or after September 1, 1984, paragraph (b) of subsection (1) of section 220.13, Florida Statutes, 1984 Supplement, is amended to read:

220.13 "Adjusted federal income" defined.—

(1) The term "adjusted federal income" means an amount equal to the taxpayer's taxable income as defined in subsection (2), or such taxable income of more than one taxpayer as provided in s. 220.131, for the taxable year, adjusted as follows:

(b) Subtractions.—

1. In computing the net operating loss deduction allowable for federal income tax purposes under s. 172 of the Internal Revenue Code for the taxable year, the net capital loss allowable for federal income tax purposes under s. 1212 of the Internal Revenue Code for the taxable year, the excess charitable contribution deduction allowable for federal income tax purposes under s. 170(d)(2) of the Internal Revenue Code for the taxable year, and the excess contributions deductions allowable for federal income tax purposes under s. 404 of the Internal Revenue Code for the taxable year, there shall be subtracted from taxable income, in order to arrive at adjusted federal income, such amounts as reflect the following limitations:

a. No deduction may be allowed for net operating losses, net capital losses, and excess contributions deductions under ss. 170(d)(2) and 404 of the Internal Revenue Code which are carried forward from taxable years ending prior to January 1, 1972;

b. The net operating loss, net capital loss, and excess contributions deductions under ss. 170(d)(2) and 404 of the Internal Revenue Code, respectively, allowable for any taxable year beginning before and ending after January 1, 1972, shall be limited to an amount which bears the same ratio to the taxpayer's net operating loss, net capital loss, and excess contributions deductions under ss. 170(d)(2) and 404 of the Internal Revenue Code, respectively, for the entire taxable year as the number of days in such year after December 31, 1971, bears to the total number of days in such year, unless the taxpayer elects to account separately for income under s. 220.12(3) of this code, in which case the net operating loss, net capital loss, and excess contributions deductions under ss. 170(d)(2) and 404 of the Internal Revenue Code, respectively, allowable for such year shall be determined on the basis of the items actually earned, received, paid, incurred, or accrued after December 31, 1971; and

c. A net operating loss and a capital loss shall never be carried back as a deduction to a prior taxable year, but all deductions attributable to such losses shall be deemed net operating loss carryovers and capital loss carryovers, respectively, and treated in the same manner, to the same extent, and for the same time periods as are prescribed for such carryovers in ss. 172 and 1212, respectively, of the Internal Revenue Code; and

~~d. No deduction may be allowed for net operating losses, net capital losses, or excess contributions deductions under ss. 170(d)(2), 172, 1212, and 404 of the Internal Revenue Code for a non-United States member of a unitary business group.~~

2. There shall be subtracted from such taxable income any amount to the extent included therein the following: ~~by a member of a unitary business group, which amount was received as a dividend paid by another member of the same unitary business group.~~

a. Dividends treated as received from sources without the United States, as determined under s. 862 of the Internal Revenue Code.

b. All amounts included in taxable income under s. 78 of the Internal Revenue Code.

However, as to any amount subtracted under this subparagraph, there shall be added to such taxable income all expenses deducted on the taxpayer's return for the taxable year which are attributable, directly or indirectly, to such subtracted amount. Further, no amount shall be subtracted with respect to dividends paid or deemed paid by a Domestic International Sales Corporation.

3. In computing "adjusted federal income" for taxable years beginning after December 31, 1976, there shall be allowed as a deduction the amount of wages and salaries paid or incurred within this state for the taxable year for which no deduction is allowed pursuant to s. 280C of the Internal Revenue Code (relating to credit for employment of certain new employees).

4. There shall be subtracted from such taxable income any amount of nonbusiness income included therein.

5. *There shall be subtracted any amount of taxes of foreign countries allowable as credits for taxable years beginning on or after September 1, 1985 under s. 901 of the Internal Revenue Code to any corporation which derived less than 20 percent of its gross income or loss for its taxable year ended in 1984 from sources within the United States, as described in s. 861(a)(2)(A) of the Internal Revenue Code, not including credits allowed under s. 902 and s. 960 of the Internal Revenue Code, withholding taxes on dividends within the meaning of subparagraph 2.a., and withholding taxes on royalties, interest, technical service fees, and capital gains.*

6. *Notwithstanding any other provision of this code, except with respect to amounts subtracted pursuant to subparagraphs 1. and 3., any increment of any apportionment factor which is directly related to an increment of gross receipts or income which is deducted, subtracted, or otherwise excluded in determining adjusted federal income shall be excluded from both the numerator and denominator of such apportionment factor. Further, all valuations made for apportionment factor purposes shall be made on a basis consistent with the taxpayer's method of accounting for federal income tax purposes.*

Section 8. Effective upon this act becoming a law, and applicable to tax years beginning on or after September 1, 1984, subsection (5) of section 220.63, Florida Statutes, is amended to read:

220.63 Franchise tax imposed on banks and savings associations.—

(5) There shall be allowed as a deduction from adjusted federal income, to the extent not deductible in determining federal taxable income or subtracted pursuant to s. 220.13(1)(b)2., the eligible net income of an international banking facility determined as follows:

(a) The "eligible net income of an international banking facility" is the amount remaining after subtracting from the eligible gross income the applicable expenses.

(b) The "eligible gross income" is the gross income derived by an international banking facility from:

1. Making, arranging for, placing, or servicing loans to foreign persons, provided, however, that in the case of a foreign person which is an individual, a foreign branch of a domestic corporation (other than a bank or savings association), or a foreign corporation or a foreign partnership which is 80 percent or more owned or controlled, either directly or indirectly, by one or more domestic corporations (other than banks or savings associations), domestic partnerships, or resident individuals, substantially all the proceeds of the loan are for use outside the United States;

2. Making or placing deposits with foreign persons which are banks or savings associations or foreign branches of banks or savings associations, including foreign subsidiaries or foreign branches of the taxpayer, or with other international banking facilities; or

3. Entering into foreign exchange trading or hedging transactions in connection with the activities described in this paragraph.

However, the term "eligible gross income" does not include any amount derived by an international banking facility from making, arranging for, placing, or servicing loans or making or placing deposits if the loans or deposits of funds are secured by mortgages, deeds of trust, or other liens upon real property located in this state.

(c) The "applicable expenses" are any expenses or other deductions attributable, directly or indirectly, to the eligible gross income described in paragraph (b).

Section 9. Effective upon this act becoming a law, and applicable to tax years beginning on or after September 1, 1984, but before September 1, 1985, paragraph (a) of subsection (3) of section 214.71, Florida Statutes, is amended to read:

214.71 Apportionment; general method.—Except as otherwise provided in ss. 214.72 and 214.73, the base upon which any tax made applicable to this chapter shall be apportioned shall be determined by multiplying same by a fraction the numerator of which is the sum of the property factor, the payroll factor, and the sales factor and the denominator of which is 3. In the event any of the factors described in subsection (1), subsection (2), or subsection (3) has a denominator which is zero or is determined by the department to be insignificant, the denominator of the apportionment fraction shall be reduced by the number of such factors.

(3) The sales factor is a fraction the numerator of which is the total sales of the taxpayer in this state during the taxable year or period and the denominator of which is the total sales of the taxpayer everywhere during the taxable year or period.

(a)1. Sales of tangible personal property are in this state if the property is delivered or shipped to a purchaser within this state, regardless of the f.o.b. point, other conditions of the sale, or ultimate destination of the property, ~~or if the property is shipped from an office, store, warehouse, factory, or other place of storage in this state and either the purchaser is the United States Government or the taxpayer is not subject to a tax upon or measured by income in the state to which the sale would be assigned absent this paragraph.~~

2. When citrus fruit is delivered by a cooperative for a grower-member, by a grower-member to a cooperative, or by a grower-participant to a Florida processor, the sales factor for such growers for such citrus fruit delivered to such processor shall be the same as the sales factor for the most recent taxable year of that processor. That sales factor, expressed only as a percentage and not in terms of the dollar volume of sales, so as to protect the confidentiality of the sales of the processor, shall be furnished on the request of such a grower promptly after it has been determined for that taxable year.

3. Reimbursement of expenses under an agency contract between a cooperative, a grower-member of a cooperative, or a grower and a processor will not be deemed a sale within this state.

Section 10. Effective September 1, 1985, and applicable to tax years beginning on and after said date, paragraph (a) of subsection (3) of section 214.71, Florida Statutes, is amended to read:

214.71 Apportionment; general method.—Except as otherwise provided in ss. 214.72 and 214.73, the base upon which any tax made applicable to this chapter shall be apportioned shall be determined by multiplying same by a fraction the numerator of which is the sum of the property factor, the payroll factor, and the sales factor and the denominator of which is 3. In the event any of the factors described in subsection (1), subsection (2), or subsection (3) has a denominator which is zero or is determined by the department to be insignificant, the denominator of the apportionment fraction shall be reduced by the number of such factors.

(3) The sales factor is a fraction the numerator of which is the total sales of the taxpayer in this state during the taxable year or period and the denominator of which is the total sales of the taxpayer everywhere during the taxable year or period.

(a)1. Sales of tangible personal property are in this state if the property is delivered or shipped to a purchaser within this state, regardless of the f.o.b. point, other conditions of the sale, or ultimate destination of the property *except where shipment is made via a common or contract carrier, or if the property is shipped from an office, store, warehouse, factory, or other place of storage in this state and either the purchaser is the United States Government or the taxpayer is not subject to a tax upon or measured by income in the state to which the sale would be assigned absent this paragraph.*

2. When citrus fruit is delivered by a cooperative for a grower-member, by a grower-member to a cooperative, or by a grower-participant to a Florida processor, the sales factor for such growers for such citrus fruit delivered to such processor shall be the same as the sales factor for the most recent taxable year of that processor. That

sales factor, expressed only as a percentage and not in terms of the dollar volume of sales, so as to protect the confidentiality of the sales of the processor, shall be furnished on the request of such a grower promptly after it has been determined for that taxable year.

3. Reimbursement of expenses under an agency contract between a cooperative, a grower-member of a cooperative, or a grower and a processor will not be deemed a sale within this state.

Section 11. Effective upon this act becoming a law, and applicable to tax years beginning on or after September 1, 1984, paragraph (r) of subsection (1) of section 220.03, Florida Statutes, 1984 Supplement, is amended, and paragraph (dd) is added to said subsection to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(r) "Nonbusiness income" means rents and royalties from real or tangible personal property, capital gains, interest, dividends, and patent and copyright royalties, to the extent that they do not arise from transactions and activities in the regular course of the taxpayer's trade or business. The term "nonbusiness income" does not include income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations, *or any amounts which could be included in apportionable income without violating the due process clause of the United States Constitution. For purposes of this definition, "income" means gross receipts less all expenses directly or indirectly attributable thereto. Functionally related dividends are presumed to be business income.*

(dd) "Functionally related dividends" include the following types of dividends:

1. *Those received from a subsidiary of which the voting stock is more than 50 percent owned or controlled by the taxpayer or members of its affiliated group and which is engaged in the same general line of business.*

2. *Those received from any corporation which is either a significant source of supply for the taxpayer or its affiliated group or a significant purchaser of the output of the taxpayer or its affiliated group, or which sells a significant part of its output or obtains a significant part of its raw materials or input from the taxpayer or its affiliated group. "Significant" means an amount of 15 percent or more.*

3. *Those resulting from the investment of working capital or some other purpose in furtherance of the taxpayer or its affiliated group.*

However, dividends not otherwise subject to tax under this chapter are excluded.

Section 12. Effective upon this act becoming a law, and applicable retroactively to September 1, 1982 (as the amendments provided by this section are expressly intended to clarify any prior ambiguity which may have existed as to the intent of the Legislature), subsection (3) of section 220.63, Florida Statutes, is amended to read:

220.63 Franchise tax imposed on banks and savings associations.—

(3) For purposes of this part, the franchise tax base shall be adjusted federal income, as defined in s. 220.13, *apportioned to this state, plus nonbusiness income allocated to this state pursuant to s. 220.16, less the deduction allowed in subsection (5) and less \$5,000.*

Section 13. Paragraph (n) of subsection (1) and paragraph (c) of subsection (2) of section 220.03, Florida Statutes, 1984 Supplement, are amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(n) "Internal Revenue Code" means the United States Internal Revenue Code of 1954, as amended and in effect on *December 7, 1984, January 12, 1983, except as provided in subsection (3).*

(2) DEFINITIONAL RULES.—When used in this code and neither otherwise distinctly expressed nor manifestly incompatible with the intent thereof:

(c) Any term used in this code shall have the same meaning as when used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes, as such code and statutes are in effect on *December 7, 1984* ~~January 12, 1983~~. However, if subsection (3) is implemented, the meaning of any term shall be taken at the time the term is applied under this code.

Section 14. Section 220.211, Florida Statutes, is created to read:

220.211 Penalties; incomplete return.—

(1) *In the case where an incomplete return is made, notwithstanding that no tax is finally determined to be due for the taxable year, there shall be added to the amount of tax, penalty, and interest otherwise due a penalty in the amount of \$150 or 5 percent of the tax finally determined to be due, whichever is greater; however, such penalty shall not exceed \$5,000. The department may settle or compromise such penalties pursuant to s. 213.21.*

(2) *An "incomplete return" is, for the purposes of this code, a return which is lacking such uniformity, completeness, and arrangement that physical handling, verification, or review of the return may not be readily accomplished.*

Section 15. Subsection (2) of section 221.01, Florida Statutes, is amended to read:

221.01 Emergency excise tax; generally.—

(2) Subsection (1) and any subsequent amendments to the provisions contained in that subsection shall expire and be void for taxable years beginning after *June 30, 1985* ~~December 31, 1984~~.

Section 16. Subsection (2) of section 221.02, Florida Statutes, is amended to read:

221.02 Credit for emergency excise tax paid.—

(2) Subsection (1) and any subsequent amendments to the provisions contained in that subsection shall expire and be void for taxable years beginning after *June 30, 1985* ~~December 31, 1984~~.

Section 17. Subsection (2) of section 221.04, Florida Statutes, is amended to read:

221.04 Administration of tax.—

(2) Subsection (1) and any subsequent amendments to the provisions contained in that subsection shall expire and be void for taxable years beginning after *June 30, 1985* ~~December 31, 1984~~.

Section 18. Paragraph (e) of subsection (5) and subsection (6) of section 220.03, Florida Statutes, 1984 Supplement, are amended to read:

220.03 Definitions.—

(5)

~~(e) A taxpayer who does not initially make the election provided for in paragraph (c) within the time period specified therein may subsequently make an election, in accordance with rules formulated by the department, to report and pay the tax as levied by this chapter as provided in that paragraph, except that the power to revoke the election provided in that paragraph shall not be available to such taxpayer. Such election shall be prospective in nature, and all transactions and events occurring during the period during which the initial method of tax treatment is in effect and the continuing tax ramifications of such events and transactions shall be governed by the provisions applicable to such method.~~

(6) The amendments contained in s. 1 of chapter 82-232, Laws of Florida, and any subsequent amendments to the provisions contained in that section shall expire and be void for taxable years beginning after *June 30, 1985* ~~December 31, 1984~~. Unused credits for emergency excise taxes paid pursuant to chapter 221 for taxable years beginning before *July* ~~January~~ 1, 1985, shall continue to be available as provided in s. 221.02.

Section 19. Paragraphs (a) and (d) of subsection (1) of section 212.11, Florida Statutes, are amended, and subsection (4) is added to said section to read:

212.11 Tax returns and regulations.—

(1)(a)1. *Each dealer shall calculate his* ~~The~~ *estimated tax liability for any month by one of the following methods equals:*

a. *Sixty-six* ~~either 66~~ *percent of the current month's liability pursuant to this part as shown on the tax return; or*

b. *Sixty-six* ~~66~~ *percent of the tax reported on the tax return pursuant to this part by a dealer for the taxable transactions sales occurring during the corresponding month of the preceding calendar year; or:*

c. *Sixty-six percent of the average tax liability pursuant to this part for those months during the preceding calendar year in which the dealer reported taxable transactions. The department is empowered to establish the estimated tax liability in cases in which a dealer was not registered for sales tax purposes during such month.*

2. Any estimated tax liability of \$1,650 or more shall be due, payable, and remitted by the 20th day of the month for which the liability applies. The difference between the estimated tax liability paid and the actual amount and taxes due under this part for such month shall become due and payable by the first day of the following month and shall be remitted by the 20th day thereof.

3. For any dealer who *has an estimated* ~~had a~~ *tax liability of less than \$1,650 or who was not registered for sales tax purposes* ~~\$2,500~~ for the corresponding month of the preceding year, the current taxes levied pursuant to this part shall be due and payable monthly on the first day of the following month and shall be remitted by the 20th day thereof.

(d) The department shall accept returns as timely if postmarked on or before the 20th day of the month; if the 20th day falls on a Saturday, Sunday, or federal or state legal holiday, returns shall be accepted as timely if postmarked on the next succeeding workday. Any dealer who operates two or more places of business for which returns are required to be filed with the department and maintains records for such places of business in a central office or place shall have the privilege on each reporting date of filing a consolidated return for all such places of business in lieu of separate returns for each such place of business; however, such consolidated returns must clearly indicate the amounts collected within each county of the state. *Any dealer who files a consolidated return shall calculate his estimated tax liability for each county by the same method he uses to calculate his estimated tax liability on the consolidated return as a whole.* Each dealer shall file a return for each tax period even though no tax is due for such period.

(4) *The 66 percent rate provided in subsection (1) shall be reduced over a period of 5 years beginning January 1, 1986, and is repealed December 31, 1990. During such period the following rates shall be applicable:*

(a) *From January 1, 1986, through December 31, 1986, the rate shall be 50 percent.*

(b) *From January 1, 1987, through December 31, 1987, the rate shall be 40 percent.*

(c) *From January 1, 1988, through December 31, 1988, the rate shall be 30 percent.*

(d) *From January 1, 1989, through December 31, 1989, the rate shall be 20 percent.*

(e) *From January 1, 1990, through December 31, 1990, the rate shall be 10 percent.*

Section 20. Paragraph (b) of subsection (2) of section 212.12, Florida Statutes, 1984 Supplement, is amended, and paragraph (c) is added to said subsection to read:

212.12 Dealer's credit for collecting tax; penalties for noncompliance; powers of Department of Revenue in dealing with delinquents; brackets applicable to taxable transactions; records required.—

(2)

(b) When any person, firm, or corporation fails to timely remit the proper estimated payment required under s. 212.11, a specific penalty shall be added in an amount equal to 5 percent of any unpaid estimated tax. *Through December 31, 1984, Under no circumstances may this penalty shall be waived upon application by the dealer unless the department has determined that there was willful intent by the dealer to evade*

payment of the tax. Beginning with January 1, 1985 returns, the department, upon a showing of reasonable cause, is authorized to waive or compromise penalties imposed by this paragraph ~~by the department~~. However, other penalties and interest shall be due and payable if the return on which the estimated payment was due was not timely or properly filed.

(c) Dealers filing a consolidated return pursuant to s. 212.11(1)(d) shall be subject to the penalty established in paragraph (b) only on the amount of unpaid estimated taxes calculated for their consolidated return as a whole. Said penalty shall not apply to amounts indicated as collected in each county.

Section 21. Effective upon this act becoming a law, if approved by a three-fifths vote of the membership of each house of the Legislature, and applicable to tax years beginning on or after September 1, 1984, subsection (2) of section 220.11, Florida Statutes, is amended to read:

220.11 Tax imposed.—

(2) The tax imposed by this section shall be an amount equal to 5 1/2 percent of the taxpayer's net income for the taxable year. *The increase in the tax imposed by this section provided by this act shall be reviewed by the Legislature at the regular session of 1989 and may be reduced by a majority vote of the membership of each house of the Legislature.*

Section 22. Effective upon this act becoming a law, if approved by a three-fifths vote of the membership of each house of the Legislature, and applicable to tax years beginning on or after September 1, 1984, subsection (2) of section 220.63, Florida Statutes, is amended to read:

220.63 Franchise tax imposed on banks and savings associations.—

(2) The tax imposed by this section shall be an amount equal to 5 1/2 percent of the franchise tax base of the bank or savings association for the taxable year. *The increase in the tax imposed by this section provided by this act shall be reviewed by the Legislature at the regular session of 1989 and may be reduced by a majority vote of the membership of each house of the Legislature.*

Section 23. Effective upon this act becoming a law, and applicable to tax years beginning on or after September 1, 1984, paragraphs (a) and (b) of subsection (1) of section 221.01, Florida Statutes, are amended to read:

221.01 Emergency excise tax; generally.—

(1) The department shall charge and collect an emergency excise tax for each taxable year from every taxpayer liable for the tax imposed by, and required to file a return under, chapter 220, except for those taxpayers subject to s. 220.03(5)(c). The provisions of this chapter shall apply retroactively to all such taxpayers, effective to the effective date of s. 168 of the Internal Revenue Code of 1954, as amended.

(a) The amount of the tax shall be 2.2 2 percent of an amount equal to 2.5 times the remainder of 40 percent of the deduction allowed, in computing adjusted federal income as defined in s. 220.13, under s. 168 of the Internal Revenue Code of 1954, as amended, exclusive of any deduction allowed under s. 168(b)(3) of the Internal Revenue Code of 1954, as amended, apportioned to this state under s. 220.15, minus any unused portion of the exemption provided for in s. 220.14 for the taxable year for which the return is required to be filed by chapter 220.

(b) If the taxpayer's net income, as defined in s. 220.12, for the taxable year for which the return required by chapter 220 is filed is a net operating loss under chapter 220, excluding any net operating loss carryovers and carrybacks, the amount of the tax shall be 2.2 2 percent of an amount equal to 2.5 times the remainder of:

1. Forty percent of the deduction allowed, in computing adjusted federal income as defined in s. 220.13, under s. 168 of the Internal Revenue Code of 1954, as amended, exclusive of any deduction allowed under s. 168(b)(3) of the Internal Revenue Code of 1954, as amended, apportioned to this state under s. 220.15, minus any unused portion of the exemption provided for in s. 220.14 for the taxable year for which the return is required to be filed by chapter 220; minus

2. The net operating loss, as apportioned to this state under s. 220.15, excluding any net operating loss carryovers and carrybacks.

Section 24. Effective upon this act becoming a law, and applicable to tax years beginning on or after September 1, 1985, paragraph (a) of subsection (1) of section 220.13, Florida Statutes, 1984 Supplement, is amended to read:

220.13 "Adjusted federal income" defined.—

(1) The term "adjusted federal income" means an amount equal to the taxpayer's taxable income as defined in subsection (2), or such taxable income of more than one taxpayer as provided in s. 220.131, for the taxable year, adjusted as follows:

(a) Additions.—There shall be added to such taxable income:

1. The amount of any ~~income~~ tax upon or measured by income, excluding taxes based on gross receipts or revenues, paid or accrued as a liability to the District of Columbia or any ~~this~~ state of the United States under ~~this code~~ which is deductible from gross income in the computation of taxable income for the taxable year.

2. The amount of interest which is excluded from taxable income under s. 103(a) of the Internal Revenue Code or any other federal law, less the associated expenses disallowed in the computation of taxable income under s. 265(2) of the Internal Revenue Code or any other law.

3. In the case of a regulated investment company or real estate investment trust, an amount equal to the excess of the net long-term capital gain for the taxable year over the amount of the capital gain dividends attributable to the taxable year.

4. That portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year under s. 220.181. The provisions of this subparagraph shall expire and be void on June 30, 1994.

5. That portion of the ad valorem school taxes paid or incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year under s. 220.182. The provisions of this subparagraph shall expire and be void on December 31, 1994.

6. The amount of emergency excise tax paid or accrued as a liability to this state under chapter 221 which tax is deductible from gross income in the computation of taxable income for the taxable year.

7. That portion of assessments to fund a guaranty association incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year.

8. That portion of the taxes paid under part II of chapter 212 which is equal to the amount of the credit allowable for the taxable year under s. 220.189.

9. In the case of a nonprofit corporation which holds a pari-mutuel permit and which is exempt from federal income tax as a farmers' cooperative, an amount equal to the excess of the gross income attributable to the pari-mutuel operations over the attributable expenses for the taxable year.

Section 25. *Each corporate taxpayer whose tax year begins on or after January 1, 1984, shall be required to recompute the estimated tax due for such taxable year and shall make the appropriate adjustments, if any, to the remaining estimated payments to insure full compliance with the applicable provisions of this act. Notwithstanding the provisions of s. 220.34, Florida Statutes, estimated tax payments based upon the facts shown on the return for, and the law applicable to, the preceding taxable year shall be recomputed as though the provisions of this act were applicable in said preceding taxable year. No penalty or interest shall be applied to the next estimated tax payment due by January 1, 1985, for a period of 30 days from the due date.*

Section 26. (1) *Effective upon this act becoming a law, the Department of Revenue is directed to conduct a survey of two randomly selected samples of taxpayers from the set of those likely to be impacted as determined to be appropriate samples by the department, based upon taxable years ended in 1983, to estimate the revenue consequences of sections 10 and 24 of this act and subparagraph 220.13(1)(b)5., Florida Statutes, as created by this act.*

(2) *The first sample shall consist of not less than 200 taxpayers whose tax payments for 1983 exceeded \$100,000, and the second sample shall consist of not less than 2000 taxpayers whose tax payments for 1983 were less than \$100,000.*

(3) *Taxpayers shall furnish to the department in an expeditious manner the information that the department deems reasonably required and requests to conduct this survey.*

(4) *If the response rate of completed survey forms for each sample group exceeds 40 percent by February 1, 1985, the department is directed to verify, to the extent deemed necessary by the department, and analyze all responses and furnish to the President of the Senate and the Speaker of the House of Representatives the results of the survey not later than May 1, 1985.*

(5) *There is hereby appropriated to the Department of Revenue the sum of \$50,000 for fiscal year 1984-85. The department is hereby authorized to implement and conduct the survey as specified in this act employing present personnel to conduct the necessary verification.*

Section 27. Except as otherwise provided herein, this act shall take effect upon becoming a law.

Amendment 1 to House Amendment 2—In title, on page 1, strike everything after the words "A bill to be entitled" and insert:

An act relating to taxation; repealing s. 220.135, F.S., which provides special reporting requirements for unitary business groups with respect to the corporate income tax; amending s. 220.64, F.S.; correcting a reference; amending s. 220.14, F.S., relating to exemptions, to delete reference to unitary business groups; amending s. 220.03, F.S.; revising the definition of "unitary business group"; revising provisions relating to certain elections taxpayers may make; amending s. 220.13, F.S.; revising adjustments applicable in computing adjusted federal income; amending s. 220.131, F.S.; revising provisions relating to filing of consolidated returns by members of affiliated groups; amending s. 220.13, F.S.; revising subtractions applicable in computing adjusted federal income; amending s. 220.63, F.S., relating to the franchise tax on banks and savings associations; including reference to certain subtractions; amending s. 214.71, F.S., relating to administrative provisions for designated nonproperty taxes; revising provisions for determining when sales of tangible personal property are in this state; amending s. 220.03, F.S.; revising the definition of "nonbusiness income" and defining "functionally related dividends"; amending s. 220.63, F.S., relating to the franchise tax on banks and savings associations; revising calculation of the tax base; amending s. 220.03, F.S.; revising the definition of "Internal Revenue Code"; creating s. 220.211, F.S.; providing a penalty for filing an incomplete return; amending ss. 221.01, 221.02, 221.04, and 220.03, F.S.; revising the expiration date of the emergency excise tax; deleting provisions which authorize taxpayers to make certain subsequent election with respect to applicability of the Internal Revenue Code; amending s. 212.11, F.S.; revising provisions relating to calculation and payment of estimated tax liability with respect to tax on sales, use, and other transactions and providing for phased reduction and repeal of the estimated tax liability percentage; amending s. 212.12, F.S.; authorizing the Department of Revenue to waive or compromise certain penalties with respect to estimated tax payments; specifying conditions for application of said penalties to consolidated returns; amending ss. 220.11 and 220.63, F.S.; increasing the corporate income tax and franchise tax on banks and savings associations; providing for review; amending s. 221.01, F.S.; increasing the emergency excise tax rate; amending s. 220.13, F.S.; revising additions applicable in computing adjusted federal income; providing for recomputation of estimated corporate tax due; directing the Department of Revenue to conduct a revenue survey; providing an appropriation; providing specific and retroactive effective dates.

On motions by Senator Crawford, the Senate concurred in the House amendments as amended and the House was requested to concur in the Senate amendments to the House amendments.

SB 1-A passed as amended by the required constitutional three-fifths vote of the membership and the action of the Senate was certified to the House. The vote on passage was:

Yeas—39

Mr. President	Fox	Jennings	Neal
Barron	Frank	Johnson	Peterson
Beard	Gersten	Kirkpatrick	Plummer
Carlucci	Girardeau	Kiser	Scott
Castor	Gordon	Langley	Stuart
Childers, D.	Grant	Mann	Thomas
Childers, W. D.	Grizzle	Margolis	Thurman
Crawford	Hair	McPherson	Vogt
Deratany	Hill	Meek	Weinstein
Dunn	Jenne	Myers	

Nays—None

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendments to House amendments and passed as further amended, by the required Constitutional three-fifths vote of the membership of the House, SB 1-A.

Allen Morris, Clerk

The bill contained in the foregoing message was ordered engrossed and then enrolled.

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has passed Senate Bills 2-A, 3-A and 5-A.

Allen Morris, Clerk

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has admitted for introduction by the required Constitutional two-thirds vote of the membership of the House and passed Senate Bills 8-A, 10-A, 11-A, 12-A and 13-A.

Allen Morris, Clerk

The bills contained in the foregoing messages were ordered enrolled.

ENROLLING REPORTS

Senate Bills 2-A, 3-A, 5-A and 10-A have been enrolled, signed by the required Constitutional Officers and presented to the Governor on December 7, 1984.

Joe Brown, Secretary

CORRECTION AND APPROVAL OF JOURNAL

The Journal of December 6 was corrected and approved.

On motion by Senator Jenne, the Senate adjourned sine die at 6:12 p.m.